

Message Text

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FOR MICRONESIAN STATUS NEGOTIATIONS

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FOR MARY VANCE TRENT, STATUS LNO

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SUBJ: PUBLIC LAND POLICY

1. FOLLOWING IS TEXT OF POLICY PAPER ON TRANSFER OF PUBLIC LANDS
FROM TTPI GOVERNMENT TO DISTRICTS:

"TRANSFER OF TITLE TO PUBLIC LANDS FROM THE TRUST TERRITORY OF
THE PACIFIC ISLANDS ADMINISTRATION TO THE DISTRICTS: U.S.
POLICY AND NECESSARY IMPLEMENTING COURSES OF ACTION

I. INTRODUCTION

THE U.S. GOVERNMENT, AS ADMINISTERING AUTHORITY IN THE TRUST TER-
RITORY OF THE PACIFIC ISLANDS, HAS ALWAYS CONSIDERED PUBLIC LAND
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IN MICRONESIA TO BE PROPERTY HELD IN TRUST FOR THE PEOPLE OF
MICRONESIA.

FOR YEARS IT WAS THOUGHT THAT THE ULTIMATE DISPOSITION OF THESE

ANDS WOULD BE DECIDED BY THE PEOPLE OF MICRONESIA THEMSELVES AS ONE OF THE IMPORTANT FEATURES OF THE POST-TRUSTEESHIP SYSTEM OF GOVERNMENT THEY ESTABLISHED UNDER THEIR OWN CONSTITUTION.

PUBLIC LANDS INCLUDE ALL LANDS ACQUIRED BY THE PRIOR SPANISH, GERMAN, AND JAPANESE ADMINISTRATIONS FOR GOVERNMENTAL OR OTHER PUBLIC PURPOSES, AS WELL AS SUCH LANDS AS THE TRUST TERRITORY GOVERNMENT MAY ITSELF HAVE ACQUIRED FOR PUBLIC PURPOSES. TIDE-LANDS AND MARINE LANDS ARE CONSIDERED PUBLIC DOMAIN AS WELL. AS USED HEREIN "PUBLIC LAND" ALSO ENCOMPASSES THOSE PRIVATE JAPANESE PROPERTIES, INCLUDING THOSE OF JAPANESE GOVERNMENT CONTROLLED AGENCIES AND CORPORATIONS, WHICH WERE SEIZED AT THE END OF WORLD WAR II AND PLACED UNDER THE CONTROL OF AN "ALIEN PROPERTY CUSTODIAN". ALTHOUGH TECHNICALLY NOT PUBLIC LANDS, THEY HAVE BEEN CONTROLLED AND DISPOSED OF IN THE SAME MANNER AS PUBLIC LANDS, AND ARE ADMINISTRATIVELY TREATED AS SUCH.

ACCORDING TO CURRENT CALCULATIONS, OVER SIXTY PERCENT OF MICRONESIA'S TOTAL LAND AREA IS PUBLIC LAND. THE PUBLIC LAND AREAS IN EACH OF THE SIX DISTRICTS OF MICRONESIA IS: PALAU 68 PERCENT; YAP 4 PERCENT; TRUK 17 PERCENT; PONAPE 66 PERCENT; MARSHALL ISLANDS 13 PERCENT; AND MARIANA ISLANDS 90 PERCENT.

II. THE MICRONESIAN REQUESTS

RECENTLY REQUESTS HAVE BEEN MADE IN PALAU THAT PUBLIC LAND IN THAT DISTRICT BE TURNED OVER NOW TO ITS TRADITIONAL LEADERS TO BE HELD IN TRUST FOR THE PEOPLE OF PALAU. THIS POSITION HAS RECEIVED THE SUPPORT OF THE PALAU DISTRICT LEGISLATURE. SUBSEQUENTLY IT WAS FORMALLY ENDORSED BY THE CONGRESS OF MICRONESIA'S JOINT COMMITTEE ON FUTURE STATUS AND COMMUNICATED TO THE U.S. GOVERNMENT.

THE UNITED STATES RESPONDED THAT IT HAD NO DIFFICULTY IN PRINCIPLE WITH THIS REQUEST AND AGREED TO STUDY THE EARLY TRANSFER TO PUBLIC LAND TO THE DISTRICTS AS A MATTER OF PRIORITY, INDICATING THAT IT COULD NOT IN A MATTER AS IMPORTANT AS THIS ACT FOR ONE DISTRICT ALONE BUT MUST CONSIDER THE PROBLEM IN ALL DISTRICTS.

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THE JOINT COMMITTEE REPLIED THAT EACH DISTRICT SHOULD DETERMINE FOR ITSELF WHAT IT WISHED DONE WITH ITS PUBLIC LAND.

III. POLICY DETERMINATIONS

THE UNITED STATES HAS NOW COMPLETED AN EXTENSIVE STUDY OF THE PROBLEM IN ALL DISTRICTS. THIS HAS INCLUDED CONSULTATION WITH LEADERS AND EXPERTS AT ALL LEVELS WITHIN THE TRUST TERRITORY AND HAS TAKEN INTO CONSIDERATION THE FURTHER VIEWS EXPRESSED BY THE CHAIRMAN OF THE JOINT COMMITTEE RECENTLY IN RESPONSE TO A SERIES OF QUESTIONS POSED LAST MAY.

AS A RESULT OF THAT STUDY THE UNITED STATES HAS NOW CONCLUDED

THAT IF IT IS THE DESIRE OF THE PEOPLE IN A DISTRICT THAT PUBLIC LANDS IN THAT DISTRICT BE TURNED OVER TO THE DISTRICT NOW BEFORE THE TERMINATION OF THE TRUSTEESHIP THE UNITED STATES IS WILLING TO ACCEED TO THEIR WISHES AND TO FACILITATE THE TRANSFER OF TITLE. THIS TRANSFER, HOWEVER, MUST BE SUBJECT TO CERTAIN LIMITATIONS AND SAFEGUARDS SET FORTH BELOW DESIGNED TO PROTECT THOSE INDIVIDUALS WHO HAVE ACQUIRED PROPERTY INTERESTS IN PUBLIC LANDS UNDER THE TRUSTEESHIP AND TO MEET THE CONTINUING LAND NEEDS OF THE TRUST TERRITORY GOVERNMENT FOR PUBLIC USE. THESE LIMITATIONS AND SAFEGUARDS WILL APPLY UNTIL THE TRUSTEESHIP ENDS, AT WHICH TIME THE NEW GOVERNMENT WILL BE FREE TO MODIFY THEM AS IT CHOOSES.

IV. MAJOR COURSES OF ACTION

A. ROLE OF THE LEGISLATIVE BODIES

THE CONGRESS OF MICRONESIA IS REQUESTED TO PASS SUCH ENABLING LEGISLATION AS IS NECESSARY TO EFFECT THE EARLY TRANSFER OF TITLE TO PUBLIC LANDS AS INDICATED HEREIN AND TO AMEND OR MODIFY AS NECESSARY THE TRUST TERRITORY CODE AS IT RELATES TO PUBLIC LAND.

THE UNITED STATES REQUESTS THAT THE DISTRICT LEGISLATURES IN EACH DISTRICT FORMALLY INDICATE THE WISHES OF THE PEOPLE IN THAT DISTRICT WITH RESPECT TO THE PUBLIC LAND LOCATED THEREIN. THIS SHOULD INCLUDE SPECIFICALLY WHETHER THE PEOPLE OF THE DISTRICT WISH THE TRUST ADMINISTRATION TO TURN OVER PUBLIC LAND IN THE DISTRICT AND IF SO TO WHOM IN THAT DISTRICT AND WHEN.

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THE PROPOSED RECIPIENTS MUST BE LEGALLY QUALIFIED TO RECEIVE AND ACCEPT TITLE TO PROPERTY, AND IF A LEGAL ENTITY IS NOT AVAILABLE OR IS NOT QUALIFIED LEGALLY TO RECEIVE REAL PROPERTY UNDER THE LAW IT MUST BE CREATED OR BECOME SO QUALIFIED FOR THIS PURPOSE. RECIPIENTS MUST AGREE TO HOLD THE PUBLIC LAND IN TRUST FOR THE PEOPLE OF THAT DISTRICT TO BE DISPOSED OF UNDER TERMS DETERMINED BY THE DISTRICT LEGISLATURE AND SUBJECT TO THE LIMITATIONS SET FORTH BELOW.

B. LIMITATIONS AND SAFEGUARDS

1. IN THE CASE OF PUBLIC LANDS NOW BEING ACTIVELY USED BY THE TRUST ADMINISTRATION AND SUBORDINATE UNITS THEREOF, TITLE TO THESE LANDS WILL NOT BE TRANSFERRED BUT WILL BE RETAINED BY THE TRUST ADMINISTRATION SO LONG AS IT IS NEEDED AND WILL REVERT THEREAFTER TO THE DISTRICTS, AS ABOVE.

2. IN ORDER TO MEET IMMEDIATE FUTURE NEEDS UNDER THE TRUSTEESHIP, THE TRUST ADMINISTRATION WILL ALSO RETAIN TITLE TO THOSE PUBLIC LANDS WHICH ARE SPECIFICALLY IDENTIFIED AS NEEDED FOR CAPITAL IMPROVEMENT PROJECTS CONTAINED IN PREVIOUSLY APPROVED ECONOMIC DEVELOPMENT PLANS COVERING THE NEXT FIVE YEARS. FOR OTHER

NEEDS THE TRUST TERRITORY GOVERNMENT WILL NEGOTIATE DIRECTLY WITH PROPERTY TITLE HOLDERS BUT WILL RETAIN AN ULTIMATE AUTHORITY OF EMINENT DOMAIN AS PRESENTLY PROVIDED UNDER THE TRUST TERRITORY CODE. THIS AUTHORITY MAY BE SHARED, HOWEVER, WITH ANY DISTRICT IF ITS LEGISLATURE SO DECIDES.

3. WHERE FORMER PUBLIC LAND HAS BEEN TURNED OVER TO INDIVIDUALS AS PART OF THE HOMESTEAD PROGRAM TITLE SHALL REMAIN IN THE HOMESTEADER OR HIS ASSIGNEES. WHERE APPLICATIONS FOR HOMESTEADS HAVE BEEN APPROVED BEFORE A DATE TO BE DETERMINED BY THE CONGRESS OF MICRONESIA BUT FULL TITLE HAS NOT YET BEEN ISSUED BY REASON OF INABILITY TO FULFILL THE REQUIREMENTS FOR A CERTIFICATE OF COMPLIANCE, TITLE SHALL BE RETAINED BY THE TRUST ADMINISTRATION TO BE TURNED OVER TO THE HOMESTEADER AS PRESCRIBED BY PRESENT LAW. IF, HOWEVER, ANY SUCH APPLICATIONS ARE NOT FINALLY PERFECTED WITHIN THE TIME PERIOD PRESCRIBED BY THE TRUST TERRITORY CODE THE LAND INVOLVD WILL REVERT TO THE APPROPRIATE DISTRICT TO BE DISPOSED OF AS THE LEGISLATURE OF THAT DISTRICT MAY PRESCRIBE. DISTRICT LEGISLATURES WILL BE FREE TO INSTITUTE THEIR OWN HOMESTEADING PRO-
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GRAMS AS THEY MAY DESIRE.

4. IN THE CASE OF OTHER INTERESTS IN PUBLIC LANDS, INCLUDING LEASES AND OTHER LAND USES ACQUIRED BY INDIVIDUALS OR BUSINESS OR PRIVATE CONCERNS FROM THE TRUST ADMINISTRATION PRIOR TO THE EFFECTIVE DATE OF TRANSFER OF TITLE TO PUBLIC LANDS TO THE DISTRICT, TITLE TO SUCH LAND SHALL NOT BE TURNED OVER TO THE NEW TITLEHOLDER IN THE DISTRICT UNTIL THAT TITLEHOLDER HAS FORMALLY AGREED TO RESPECT THE TERMS OF THE ARRANGEMENTS PREVIOUSLY ENTERED INTO BY THE TRUST ADMINISTRATION. IN THE CASE OF TENANTS AT WILL OR TENANTS BY SUFFERANCE NOW OCCUPYING PUBLIC LAND WITH THE CONCURRENCE OF THE TRUST ADMINISTRATION, TITLE WOULD NOT PASS UNTIL THE NEW TITLEHOLDER HAS FORMALLY AGREED TO RESPECT SUCH ARRANGEMENT FOR A REASONABLE PERIOD OF YEARS, WHOSE NUMBER IS TO BE DETERMINED. IN BOTH CASES THE NEW TITLEHOLDER WOULD RECEIVE RENTS PREVIOUSLY PAID TO THE TRUST ADMINISTRATION.

5. WHERE PUBLIC LAND IS TO BE USED TO MEET DEFENSE NEEDS UNDER THE TERMS OF PROPOSED FUTURE STATUS AGREEMENTS WITH THE UNITED STATES TITLE TO SUCH LAND WILL PASS SIMULTANEOUSLY WITH THE PROSPECTIVE TITLEHOLDER'S FORMAL COMMITMENT TO ACCOMMODATE THOSE NEEDS IN GOOD FAITH ON TERMS TO BE MUTUALLY AGREED WITH UNITED STATES AUTHORITIES.

6. IN THE CASE OF PUBLIC LAND TO WHICH THERE ARE UNRESOLVED CLAIMS TRANSFER OF TITLE TO EACH DISTRICT SHALL BE SUBJECT TO SUCH CLAIMS, WHICH MAY THEN BE SETTLED UNDER PROCEDURES AND MEANS PRESCRIBED BY THE INDIVIDUAL DISTRICT LEGISLATURES, WHICH MAY INCLUDE TRADITIONAL MEANS; PROVIDING, HOWEVER, THAT IN THE EVENT SUCH CLAIMS STILL REMAIN UNSETTLED THE CLAIMANT WILL HAVE ACCESS TO REGULAR COURTS OF THE TRUST TERRITORY. THE TITLEHOLDERS TO

PUBLIC LAND MUST AGREE BEFORE TITLE IS FINALLY PASSED TO HOLD THE UNITED STATES AND THE TTPI ADMINISTRATION HARMLESS FROM CLAIMS OTHER THAN THOSE RESULTING DIRECTLY FROM THE ACTION OF THE UNITED STATES OR ITS DULY AUTHORIZED AGENTS.

7. TITLE TO TIDELANDS, FILLED LANDS, SUBMERGED LANDS AND LAGOONS SHALL BE TURNED OVER TO THE DISTRICTS; PROVIDED, HOWEVER, THAT THE CENTRAL GOVERNMENT OF THE TRUST TERRITORY SHALL RETAIN THE RIGHT TO CONTROL ACTIVITIES WITHIN THESE AREAS AFFECTING THE PUBLIC INTEREST.

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C. THE CADASTRAL PROGRAM

THE U.S. GOVERNMENT INTENDS TO INITIATE A SPECIAL EFFORT UNDER DIRECTION OF THE TRUST ADMINISTRATION TO COMPLETE WITHIN THREE YEARS THE CADASTRAL PROGRAM ON ALL PUBLIC LANDS. FUNDS TO INITIATE THIS EFFORT WILL BE SOUGHT BY SUPPLEMENTAL APPROPRIATIONS AND IT WILL BE ACCOMPLISHED BY SPECIAL CONTRACTS WHICH WILL PERMIT CURRENT LAND OFFICE PERSONNEL AND RESOURCES TO CONCENTRATE ON COMPLETION OF THE PRIVATE LAND CADASTER PROGRAM AS THE DISTRICTS MAY DESIRE.

D. THE LAND MANAGEMENT FUNCTION

LAND MANAGEMENT FUNCTIONS WILL BE TURNED OVER TO THE DISTRICTS TO BE HANDLED AS THE DISTRICT LEGISLATURES MAY DETERMINE. THE TRUST ADMINISTRATION WILL MAINTAIN A SMALL LAND MANAGEMENT OFFICE OF ITS OWN TO ADMINISTER LAND USED BY THE CENTRAL GOVERNMENT AND TO PROVIDE SUCH ADVISORY SERVICES AS MAY BE REQUESTED BY THE DISTRICTS.

E. TIMING

TRANSFER OF TITLE CAN TAKE PLACE JUST AS SOON AS NECESSARY IMPLEMENTING ACTION HAS BEEN TAKEN BY THE ELECTED REPRESENTATIVES OF THE PEOPLE OF MICRONESIA, THE INDIVIDUAL DISTRICT LEGISLATURES AND THE PROSPECTIVE TITLEHOLDERS. TRANSFER NEED NOT TAKE PLACE SIMULTANEOUSLY FOR ALL DISTRICTS."

V. IMPLEMENTATION

RESPONSIBILITY FOR THE IMPLEMENTATION OF THIS POLICY WILL REST WITH THE HIGH COMMISSIONER OF THE TRUST TERRITORY. FURTHER INSTRUCTIONS AND GUIDANCE REGARDING ITS IMPLEMENTATION WILL BE PROVIDED BY THE DEPARTMENT OF THE INTERIOR." END QUOTE. KISSINGER

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